

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

HECTOR MAYSONET-RONDON,
Plaintiff,

v.

Civil No. 09-1338 (ADC)

COMMISSIONER OF SOCIAL
SECURITY,
Defendant.

OPINION AND ORDER

A. Procedural History

Plaintiff Héctor Maysonet-Rondón (“Rondón”) sought judicial review of the final decision of the defendant the Commissioner of Social Security (Commissioner) denying the application for entitlement to a period of disability and benefits.

Magistrate Judge Camille Vélez-Rivé issued a Report and Recommendation (“R & R”) on October 1, 2009 to which objections, if any, were to be filed by October 19, 2009. To date, no objections have been filed.

B. Standard of Review

A district court may refer pending motions to a magistrate-judge for a report and recommendation. 28 U.S.C. § 636(b)(1)(B); Fed. R. Civ. P. 72(b); L. Civ. R. 72(a). Any party adversely affected by the recommendation issued may file written objections within ten (10) days of being served with the report and recommendation. 28 U.S.C. § 636(b)(1). A party that files a timely objection is entitled to a *de novo* determination of “those portions of the report or

specified proposed findings or recommendations to which specific objection is made.” *Sylva v. Culebra Dive Shop*, 389 F. Supp. 2d 189, 191-92 (D.P.R. 2005) (citing *United States v. Raddatz*, 447 U.S. 667, 673 (1980)). Failure to comply with this rule may preclude further review by the district court and the court of appeals. See *Santiago v. Cannon U.S.A. Inc.*, 138 F.3d 1, 4 (1st Cir. 1998); *Davet v. Maccorone*, 973 F.2d 22, 30-31 (1st Cir. 1992). Similarly, a party objecting to a report and recommendation is “not entitled to a de novo review of an argument never raised” before the magistrate-judge. *Borden v. Sec. of Health and Human Svcs.*, 836 F.2d 4, 6 (1st Cir. 1987).

In conducting its review, the Court is free to “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate-judge.” 28 U.S.C. § 636 (a)(b)(1); see also *Templeman v. Cris Craft Corp.*, 770 F.2d 245, 247 (1st Cir. 1985); *Alamo-Rodríguez v. Pfizer Pharmaceuticals, Inc.*, 286 F. Supp. 2d 144, 146 (D.P.R. 2003). Hence, the Court may accept those parts of the report and recommendation to which the plaintiff does not object. See *Hernández-Mejías v. General Elec.*, 428 F. Supp. 2d 4, 6 (D.P.R. 2005) (citing *Lacedra v. Donald W. Wyatt Detention Facility*, 334 F. Supp. 2d 114, 125-26 (D.R.I. 2004)).

C. Conclusion

Having conducted independent review of the record and no objections being filed, the court **ADOPTS** the Report and Recommendation.

Accordingly, the Commissioner decision is set aside, for it not being supported by substantial evidence on the record.

The Clerk of Court will enter judgment accordingly.

SO ORDERED.

At San Juan, Puerto Rico, this 10th day of November, 2009.

S/AIDA M. DELGADO-COLON
United States District Judge